

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0321-15
Bill No.: Truly Agreed To and Finally Passed CCS for SS for SCS for HCS for HB 117
Subject: Elections; Constitutional Amendments; Secretary of State
Type: Original
Date: June 11, 2013

Bill Summary: This proposal modifies the law relating to initiative and referendum petitions.

FISCAL SUMMARY

| ESTIMATED NET EFFECT ON GENERAL REVENUE FUND | | | |
|---|------------|------------|------------|
| FUND AFFECTED | FY 2014 | FY 2015 | FY 2016 |
| | | | |
| | | | |
| Total Estimated Net Effect on General Revenue Fund | \$0 | \$0 | \$0 |

| ESTIMATED NET EFFECT ON OTHER STATE FUNDS | | | |
|---|------------|------------|------------|
| FUND AFFECTED | FY 2014 | FY 2015 | FY 2016 |
| | | | |
| | | | |
| Total Estimated Net Effect on <u>Other</u> State Funds | \$0 | \$0 | \$0 |

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 9 pages.

| ESTIMATED NET EFFECT ON FEDERAL FUNDS | | | |
|---|----------------|----------------|----------------|
| FUND AFFECTED | FY 2014 | FY 2015 | FY 2016 |
| | | | |
| | | | |
| Total Estimated Net Effect on <u>All</u> Federal Funds | \$0 | \$0 | \$0 |

| ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE) | | | |
|---|----------------|----------------|----------------|
| FUND AFFECTED | FY 2014 | FY 2015 | FY 2016 |
| | | | |
| | | | |
| Total Estimated Net Effect on FTE | 0 | 0 | 0 |

☐ Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

☐ Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

| ESTIMATED NET EFFECT ON LOCAL FUNDS | | | |
|--|----------------|------------------------------|------------------------------|
| FUND AFFECTED | FY 2014 | FY 2015 | FY 2016 |
| Local Government | \$0 | (More than \$100,000) | (More than \$100,000) |

FISCAL ANALYSIS

ASSUMPTION

Officials at the **Office of the Secretary of State (SOS)** assume this proposal requires the SOS to post a petition sample along with the full text of the proposed measure on its website within two business days of receipt of the petition sample. This would cause a significant increase in web developer time dealing with petitions. This is because currently only petitions approved for circulation are posted whereas, this bill would require all submitted sample petitions to be posted. There were 80 petition samples submitted in the 2012 fiscal year. Based on the 2012 fiscal year this will cost at least

Approximate time to post a petition to the SOS website: One hour.
Anticipated number of sample petitions per fiscal year (based on FY 2012): 80
Anticipated number of rejected and withdrawn petitions per FY (based on FY 2012): 20
Per-hour web developer cost: \$31.49
Cost per fiscal year: $(\$31.49 \times 80) + (\$31.49 \times 20) = \$3,149$

This proposal will reduce the time allowed for SOS to review submitted petition sample sheets as to form by 15 days. This reduction will require an additional staff attorney, costing the state at least \$45,000 to be able to meet the new time constraint.

Oversight assumes SOS could absorb the review of submitted petition sample sheets with existing resources. Should the number of petition sample sheets reach the number for a new FTE, the new FTE could be sought through the appropriation process.

Oversight assumes SOS could absorb the cost of posting information on the website with existing resources.

Officials at the **Missouri Ethics Commission**, **Office of the State Auditor** and the **Office of State Courts Administrator** each assume there is no fiscal impact to their organization from this proposal.

Officials at the **Office of Attorney General (AGO)** assume that any potential costs resulting from this proposal could be absorbed with existing resources.

In response to a previous version of this proposal, **Legislative Research** assumed there was no fiscal impact from this proposal.

In response to a previous version of this proposal, officials at the **Office of Prosecution Services** assumed no impact on their organization; however, the creation of a new crime creates additional

ASSUMPTION (continued)

responsibilities for county prosecutors which may in turn result in additional costs which are difficult to determine.

For the purpose of this proposed legislation, officials at the **Office of State Public Defender (SPD)** cannot assume that existing staff will provide effective representation for any new cases arising where indigent persons are charged with the proposed new crimes regarding petition signatures, a new D felony. Failure to report signature fraud would become a Class A misdemeanor. Malicious obstruction of the signing of a petition would become a new misdemeanor.

While the number of new cases (or cases with increased penalties) may be too few or uncertain to request additional funding for this specific bill, the SPD will continue to request sufficient appropriations to provide effective representation.

Oversight assumes the SPD can absorb the additional caseload that may result from this proposal.

Officials from the **Department of Corrections (DOC)** stated that they could not predict the number of new commitments which could result from the creation of the offense(s) outlined in the proposal. An increase in commitments would depend on the utilization of prosecutors and the actual sentences imposed by the courts. If additional persons were sentenced to the custody of the DOC due to the provisions of this legislation, the DOC would incur a corresponding increase in operational costs through supervision provided by the Board of Probation and Parole (FY 2012 average \$4,960 per offender, per day or an annual cost of \$1,810).

In summary, supervision by the DOC through probation would result in some additional costs, but it is assumed the impact would be \$0 or a minimal amount that could be absorbed within existing resources.

Officials at the **Kansas City Board of Election Commission** assume there is no fiscal impact from this proposal. Any cases of fraud would be turned over to the Prosecuting Attorney.

Officials at **Wayne County** assume the additional cost would be the hourly rate of the employee or election authority to investigate and then prepare and file a report with Prosecuting Attorney. Probably up to \$200 per suspected fraud committed. Their big concern is that with the failure to report the suspected fraud is a class A misdemeanor.

ASSUMPTION (continued)

Officials at **Boone County** stated this proposal makes it a crime to not submit duplicate questionable signatures to the prosecuting attorney, so now they will send all signatures. In the past the Office of the Secretary of State was responsible for this. In 2012, there were approximately 4,000 duplicate signatures on petitions. At approximately \$10 per duplicate signature to investigate this would be a minimum \$40,000. We estimate an impact to the County of \$40,000 to \$150,000 per election, depending on number of petitions.

Officials at the **St. Louis County Board of Election Commissioners** assume this will require the Commission to report any case of signature fraud to the Prosecuting Attorney. If this language is interpreted broadly, any signature that is wrong, rejected, or a duplicate would have to be sent to the Prosecuting Attorney. The Commission would have to hire a temporary worker to prepare the material for review by the Prosecuting Attorney. The salary for the worker would be \$19.11 per hour times twelve weeks for \$9,172.80. Each signature that is rejected would need to be copied and its corresponding file copy of the signature copied at 10 cents per signature. If the law had been in place in 2012, it would have cost the Commission \$17,933.20 to print/photocopy, prepare and send this information to the Prosecuting Attorney.

Oversight will reflect the cost to the local election authorities and prosecuting attorneys for the verification of the signatures as More than \$100,000 annually beginning in FY 2015.

Officials at the following board of election commissioners: St. Louis City Board of Election Commissioners, Clay County Board of Election Commissioners, Jackson County Board of Election Commissioners and the Platte County Board of Election Commissioners did not respond to **Oversight's** request for fiscal impact.

Officials at the following counties: Andrew, Audrain, Barry, Bates, Buchanan, Callaway, Camden, Cape Girardeau, Carroll, Cass, Clay, Cole, Cooper, DeKalb, Franklin, Greene, Holt, Jackson, Jefferson, Johnson, Knox, Laclede, Lawrence, Lincoln, Marion, Miller, Moniteau, Monroe, Montgomery, New Madrid, Nodaway, Ozark, Perry, Pettis, Phelps, Platte, Pulaski, Scott, St. Charles, St. Louis, St. Francois, Taney, Warren and Worth did not respond to **Oversight's** request for fiscal impact.

| <u>FISCAL IMPACT - State Government</u> | FY 2014 (10 Mo.) | FY 2015 | FY 2016 |
|--|---------------------|----------------------------------|----------------------------------|
| | <u>\$0</u> | <u>\$0</u> | <u>\$0</u> |
| <u>FISCAL IMPACT - Local Government</u> | FY 2014 (10 Mo.) | FY 2015 | FY 2016 |
| LOCAL ELECTION AUTHORITY AND PROSECUTING ATTORNEY FUNDS | | | |
| <u>Cost</u> - verification of signatures by the local election authorities and prosecuting attorneys | \$0 | (More than <u>\$100,000</u>) | (More than <u>\$100,000</u>) |
| ESTIMATED NET EFFECT ON LOCAL ELECTION AUTHORITIES AND PROSECUTING ATTORNEY FUNDS | \$0 | (More than <u>\$100,000</u>) | (More than <u>\$100,000</u>) |

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

This bill changes the laws regarding initiative and referendum petitions. In its main provisions, the bill:

- (1) Requires a petition circulator to swear or affirm under penalty of perjury that he or she has never been convicted of, found guilty of, or pled guilty to any offense involving forgery and that he or she is at least 18 years old and to disclose if he or she is a paid or unpaid volunteer and if paid, to list the payer;
- (2) Specifies that a petition circulator is deemed registered at the time he or she delivers a signed circulator's affidavit to the Office of the Secretary of State;
- (3) Prohibits an individual who has been convicted of, found guilty of, or pled guilty to an offense involving forgery in Missouri or an offense involving forgery under the laws of any other

FISCAL DESCRIPTION (continued)

jurisdiction if the offense would be considered forgery under this state's laws from qualifying as a petition circulator;

(4) Specifies that a person commits the crime of petition signature fraud, a class A misdemeanor, if he or she intentionally submits petition signature sheets with the knowledge that the person whose name appears on the sheet did not actually sign the petition, causes a voter to sign a petition other than the one he or she intended to sign, forges or falsifies signatures, knowingly accepts or offers money or anything of value to another person in exchange for a signature on a petition, or knowingly causes a petition circulator's signatures to be submitted for counting and knows that the circulator has violated specified violations or causes the signatures to be submitted with reckless indifference as to whether the circulator has complied with specified provisions related to signature fraud after receiving notice of facts indicating that the person may have violated specified provisions;

(5) Specifies that any person employed by or serving as an election authority who has reasonable cause to suspect that a person has committed petition signature fraud must immediately report or cause a report to be made to the appropriate prosecuting authorities. Failure to report or cause a report to be made will be a class A misdemeanor;

(6) Allows a person who submits a sample sheet to or files an initiative petition with the Secretary of State to withdraw the petition upon written notice to the Secretary of State and requires the Secretary of State to vacate the certification of the official ballot title within three days of receiving the notice;

(7) Requires the Joint Committee on Legislative Research to hold a public hearing in Jefferson City within 30 days of the certification that a petition contains a sufficient number of valid signatures to take public comment concerning the proposed measure. The meeting must be a public meeting under the Open Meetings and Records Law, commonly known as the Sunshine Law. Within five business days after the end of the hearing, the committee must provide a summary of the hearing to the Secretary of State or his or her designee and the Secretary of State must post a copy of the summary on its website;

(8) Requires an action challenging the official ballot title or the fiscal note of a proposed constitutional amendment to be adjudicated within 180 days of filing unless a court finds good cause to extend the period. Good cause can only consist of court-related scheduling issues and cannot include requests for continuance by the parties;

(9) Requires the person submitting a sample sheet to submit a copy of the filed statement of committee organization required under Section 130.021, RSMo, showing the date that the

FISCAL DESCRIPTION (continued)

statement was filed if a committee or person other than the individual submitting the sample sheet is funding any portion of the drafting or submitting of the sample sheet;

(10) Requires the Secretary of State to conspicuously post on its website, within two business days of receipt of any sample sheet, the text of the proposed measure, a disclaimer stating that the text may not constitute the full and correct text, and the name of the person or organization submitting the sample sheet. Failure to post will be an open record violation under Chapter 610. The posting must be removed within three days of the withdrawal or the rejection of a petition. Currently, the Secretary of State must send written notice to the person who submitted the petition sheet of its approval or rejection within 30 days after submission of the petition sheet. The bill changes the notification to within 15 days;

(11) Specifies that if the petition form is approved, the Secretary of State must make a copy of the sample petition available on its website. The Secretary of State must accept public comments regarding the proposed measure for 15 days after the petition is approved as to form and provide copies of the comments upon request. Currently, the Secretary of State must prepare and transmit a summary statement of the measure to the Attorney General within 10 days of the approval of the petition form. The bill requires the Secretary of State to prepare and transmit the summary statement within 23 days of receipt of the approval; and

(12) Requires signatures for statutory initiative petitions to be filed no later than six months prior to the general election during which the petition's ballot measure is submitted for a vote and to be collected no earlier than the day after the day upon which the previous general election was held.

The provisions of the bill become effective November 4, 2014, except for those related to the crime of petition signature fraud which become effective August 28, 2013.

The bill contains a severability clause and if any provision of the bill is found to be unconstitutional, the remaining provisions will remain valid with specified exceptions.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

L.R. No. 0321-15

Bill No. Truly Agreed To and Finally Passed CCS for SS for SCS for HCS for HB 117

Page 9 of 9

June 11, 2013

SOURCES OF INFORMATION

Boone County

Department of Corrections

Kansas City Board of Election Commission

Legislative Research

Missouri Ethics Commission

Office of Attorney General

Office of Prosecution Services

Office of the Secretary of State

Office of the State Auditor

Office of State Courts Administrator

Office of the State Public Defender

St. Louis County Board of Election Commission

Wayne County



Ross Strobe
Acting Director
June 11, 2013